Remarks

This document is being submitted in response to the non-final Office Action mailed to the Applicant's representative on November 02, 2005. In the present application, claims 1-13 are currently pending: claims 12-13 have been withdrawn from consideration, and claims 1-11 stand as rejected by the Patent Office. In response to the Office Action, claims 1-4, 6-8, and 10-11 have been amended, and claims 5 and 9 have been cancelled without prejudice. The Applicant respectfully requests reconsideration of the claims in light of the amendments and remarks made herein.

Information Disclosure Statement

The Applicant acknowledges that that the Information Disclosure Statement filed on March 3, 2004 was considered by the Patent Office in the November 02, 2005 Office Action.

35 U.S.C. §103(a)

On pages 2-3 of the Office Action of November 02, 2005, the Patent Office indicated that claims 1, 3, and 5-7 are rejected under 35 U.S.C. §103(a) as being unpatentable over Smith (U.S. Pat. No. 6,761,702) in view of Shu (U.S. Pat. No. 6,918,517). On pages 3-4 of the Office Action, the Patent Office indicated that claims 2, 4, and 8-11 are rejected under 35 U.S.C. §103(a) as being unpatentable over Smith in view of Shu, and further in view of Ouelette (U.S. Pat. No. 4,842,580). On page 4 of the Office Action, the Patent Office makes further reference to Hawks (U.S. Pat. No. 4,943,285) in regards to claims 2, 4, and 8-11. Claims 5 and 9 have been cancelled, rendering moot further discussion thereof. For purposes of more clearly defining the invention, claims 1-4, 6-8, and 10-11 have been amended. For the reasons stated below, the amended claims are believed to define patentably over the cited § 103 references.

MPEP 2142 provides that to establish a *prima facie* case of obviousness, three basic criteria must be met: (i) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings; (ii) there must be a reasonable expectation of success; and (iii) the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the

reasonable expectation of success must both be found in the prior art, and must not be based on the Applicant's disclosure. *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991). The Applicant argues that the claims, as amended, do not permit a finding of *prima facie* obviousness in the present application because the prior art references do not teach nor suggest all the claim limitations of the Applicant's claimed invention, and/or there is no motivation to modify the reference or combine reference teachings to arrive at the Applicant's claimed invention.

The Applicant asserts that in view of the amendments to independent claims 1, 3, and 8, that Smith, Shu, and Ouelette, do not, individually or in combination, teach or suggest all of the Applicant's claim limitations, as required by MPEP 2142. More specifically, the colon hydrotherapy device claimed by the Applicant provides a housing that includes ***two*** separate chambers formed within the housing and ***integrally with*** the housing (see Applicant's FIG. 3b) of the device. The device taught by Smith provides a tubular body (10) that includes only a ***single*** internal passage (22) formed integrally with the body (10). A completely separate hose (26), which is clearly not formed within or integrally with the body (10) (see Smith, Fig. 3), must be inserted into the tubular body (10) to introduce irrigation fluid into the colon of a patient. Thus, the limitation of a housing that includes ***two*** separate chambers formed within the housing and ***integrally with*** the housing is completely absent from Smith.

The Applicant's device also provides a nozzle that includes a plurality of outlets that are adapted to create a high-pressure fluid vortex for dissolving or breaking-up solid matter found within the large intestine (see paragraph 29 of the present application). The device taught by Shu includes elongated grooves (614) that allow water to flow from the device in "***gentle water streams***" (see Col. 3, lines 41-45). Thus, the limitation of a plurality of outlets that are adapted to create a ***high-pressure fluid vortex*** is completely absent from Shu. Furthermore, Shu actually teaches away from using a high-pressure vortex; thus, there is no motivation that can be found in either Smith or Shu for combining the teachings of these references to arrive at the Applicant's claimed invention.

The Applicant's device also provides an insertion component or rod (30) that further includes a rounded tip (31) having a groove (32) that corresponds to the placement of the inlet

(42) in said nozzle, and a planar grasping member (35) at the end of the insertion rod opposite said tip (31), that further includes at least one stabilizing notch (36) (see Applicant's Fig. 2) formed therein. Despite the Patent Office's assertions on pages 3-4 of the Office Action, neither of the insertion rods taught by Oulette or Hawks includes a grooved tip or a notched grasping member. Thus, because these limitations are also completely absent from the cited references, the cited references do not teach all of the claim limitations as required by MPEP 2142.

In light of the amendments made to the claims and the arguments presented above, the Applicant asserts that claims 1, 3, and 8 are not obvious in view of the cited references and that these claims define patentably over the art cited by the Patent Office. Because claims 2, 4, 6-7, and 10-11 are independent claims that depend from either claim 1, 3, or 8, the Applicant asserts that these claims are also patentable over the cited references.

Conclusion

For the reasons set forth herein, this application is believed to be in condition for allowance, as the claims are believed to define patentably over the cited art. Favorable consideration of this application is respectfully requested.

Respectfully submitted,

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